

Amendment No. 6 to SB0325

McNally
Signature of Sponsor

AMEND Senate Bill No. 325*

House Bill No. 234

By deleting subsection (e) of Section 39-17-431 of the amendatory language of SECTION 1 and substituting instead the following:

(e)

(1) Beginning January 1, 2012, a pharmacy shall, before completing a sale of any product that contains any immediate methamphetamine precursor, electronically submit the required information to the Tennessee Methamphetamine Information System (TMIS) administered by the Tennessee bureau of investigation; provided that the TMIS system is available to pharmacies in the state without a charge for accessing or using the system and there is no transaction fee charged to a pharmacy for entering transactions into the system or using the system to determine if a transaction may be completed. The seller shall not complete the sale if the system generates a stop sale alert except as provided under subsection (j).

(2) The data entered into, stored and maintained by the Tennessee Methamphetamine Information System (TMIS) may only be used by law enforcement officials, health care professionals and pharmacists and only for controlling the sale of methamphetamine precursors.

(3) Absent negligence, wantonness, recklessness, or deliberate misconduct, any pharmacy utilizing the electronic sales tracking system in accordance with this subsection (e) shall not be civilly liable as a result of any act or omission in carrying out the duties required by this subsection (e) and shall be immune from liability to any third party unless the retailer has violated this subsection (e) in relation to a claim brought for such violation.

(4) This subsection (e) shall not apply to a person who obtains the product or products pursuant to a valid prescription.

AND FURTHER AMEND by adding the following language at the end of the subsection (c) of the amendatory language of Section 1:

This subsection (c) also shall apply to pharmacist-generated prescription orders of the product pursuant to § 63-10-206. The provision of the patient education and counseling as a part of the practice of pharmacy shall be required when product is issued under this subsection (c).

AND FURTHER AMEND by deleting the language " an over-the counter product containing pseudoephedrine or ephedrine " from the first sentence of subsection (d) of the amendatory language of Section 1 and by substituting instead the language " a nonexempt product that contains any immediate methamphetamine precursor ".

AND FURTHER AMEND by deleting the language " an over-the counter product containing pseudoephedrine or ephedrine " from subsection (f) of the amendatory language of Section 1 and by substituting instead the language " a nonexempt product that contains any immediate methamphetamine precursor ".

AND FURTHER AMEND by deleting the language " an over-the counter product containing pseudoephedrine or ephedrine " from the first sentence of subsection (g) of the amendatory language of Section 1 and by substituting instead the language " a nonexempt product that contains any immediate methamphetamine precursor ".

AND FURTHER AMEND by deleting the language "or in a locked case within view of and within twenty-five feet (25') of the counter." from subsection (h) of the amendatory language of Section 1:

AND FURTHER AMEND by deleting the second sentence of subsection (j) and by substituting instead the following:

The system shall contain an override function that may be used by a dispenser of any immediate methamphetamine precursor who has a reasonable fear of imminent bodily harm if they do not complete a sale or who is acting to fill a valid prescription issued by a licensed

physician, certified physician assistant, or nurse authorized under § 63-6-204, who is rendering service under the supervision, control, and responsibility of a licensed physician and who meets the requirements of § 63-7-207(14).

AND FURTHER AMEND BY deleting subsection (l) of the amendatory language of SECTION 1 and substituting instead the following:

(i)

(1) Unless constitutionally preempted, nothing in this section shall be construed as prohibiting local governments from enacting laws or ordinances regulating the sale or the method of sale of products containing an immediate methamphetamine precursor; provided such laws or ordinances impose stricter regulations on the sale of such products than are imposed by the provisions of this section.

(2) The provisions of this section that are constitutionally required to be uniform across the state shall supersede and preempt any local laws and ordinances that regulate, govern or differ from such provisions.

AND FURTHER AMEND by adding the following language at the end of amendatory language of Section 1 as a new subsection (m):

(m) There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the pharmacist's professional duty to counsel and evaluate the patient's appropriate pharmaceutical needs and the exercise of the pharmacist's professional judgment as to whether it is appropriate to dispense medication.